



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2022-0073]

RIN 1625-AA08

Special Local Regulations; Annual Events in Captain of the Port Delaware Bay Zone.

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing special local regulations for four annual marine events in the Captain of the Port (COTP), Delaware Bay Zone. This action is necessary to protect participants, spectators, and vessels from the hazards associated with the varying types of marine events. This rulemaking prohibits persons and vessels from being in the regulated areas during the enforcement period unless authorized by the COTP or a designated representative.

DATES: This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2022-0073 in the search box and click "Search." Next, in the Document Type column, select "Supporting & Related Material."

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email MST1 Jennifer Padilla, Waterways Management Division, Sector Delaware Bay, U.S. Coast Guard; telephone (215) 271-4889, email Jennifer.l.Padilla@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

The four marine events included in this rule are held on a recurring basis on the navigable waters within the Captain of the Port, Delaware Bay Zone. Historically, the Coast Guard established annual temporary final regulations for each of these recurring events. In response, on February 17, 2022, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Special Local Regulations; Annual Events in Captain of the Port Delaware Bay Zone (87 FR 8994). There, we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to the special local regulations and recurring marine events. During the comment period that ended March 21, 2022 we received no comments.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70041. The Secretary has delegated ports and waterways authority, with certain reservations not applicable here, to the Commandant via DHS Delegation No. 00170.1(II)(70), Revision No. 01.2. The Commandant has further delegated these authorities within the Coast Guard as described in 33 CFR 1.05-1 and 6.04-6. The Coast Guard has determined that the events listed in this rule could pose a risk to participants or waterway users if normal vessel traffic were to interfere with the event. Possible hazards include risks of participant injury or death resulting from near or actual contact with non-participant vessels traversing through the regulated areas. In order to protect the safety of all waterway users, including event participants and spectators, this rule establishes special

local regulations for the time and location of each marine event. This rule prevents vessels from entering, transiting, mooring or anchoring within areas specifically designated as regulated areas during the periods of enforcement unless authorized by the Captain of the Port (COTP), or designated Event Patrol Commander.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published February 17, 2022. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

The Coast Guard is adding four reoccurring special local regulations for annual marine events in the Captain of the Port Delaware Bay to 33 CFR 100.501 in Table 1 to Paragraph (i)(1). The Coast Guard will publish annual notice of the exact dates and times of the effective periods of the regulations. For each event, the notices will also provide the geographical description of each regulated area and other pertinent details concerning the nature of the events. This rule is necessary to protect participants, spectators, and vessels from the hazards associated with the varying types of marine events. During the enforcement periods of these special local regulations, non-participant persons or vessels are prohibited from entering into, remaining within, transiting through, or anchoring in the regulated area unless authorized by the Captain of the Port Delaware Bay or a designated representative of the Captain of the Port. The regulatory text appears at the end of this document.

Below is a description of the four reoccurring marine events that we are adding to Table 1 to Paragraph (i)(1) in 100.501.

1. Stockton Boat Race.

This marine event takes place one weekend in March or April at the location described below. The event is in Atlantic City, NJ, where the following area makes up the regulated area: All navigable waters of the New Jersey Intracoastal Waterway in

Atlantic City, NJ, within the polygon bounded by the following: originating on the southwest portion at approximate position latitude 39°20'57" N., longitude 074°27'59" W.; thence northeasterly along the shoreline to latitude 39°21'35" N., longitude 074°27'06" W.; thence east across the mouth of Beach Thorofare to the shoreline at latitude 39°21'41" N., longitude 074°26'55" W.; thence east along the shoreline to latitude 39°21'42" N., longitude 074°26'51" W.; thence southeast across the New Jersey Intracoastal Waterway to the shoreline at latitude 39°21'43" N., longitude 074°26'41" W.; thence southwest along the shoreline to approximate position latitude 39°20'55" N., longitude 074°27'57" W.; thence north to the point of origin. The sponsor is Stockton University.

2. Escape the Cape Swim.

This marine event takes place on one Saturday or Sunday in June. The regulated area is in Lower Township, NJ, in the following area: All navigable waters of the Delaware Bay in Lower Township, NJ, bounded by a line drawn from: latitude 39°0'57" N, longitude 074°56'56" W in Villas, NJ, thence west to latitude 39°00'59"N, longitude 074°57'15"W, thence south to latitude 38°58'08"N, longitude 074°58'11"W, thence east to latitude 38°58'04" N, longitude 074°57'52" W in North Cape May, NJ, thence north along the shoreline to the point of origin. The sponsor is DelMoSports.

3. Around the Island Paddle.

This marine event takes place on one Saturday or Sunday in June, July, or August. The regulated area location is in Cape May County, NJ. The following area is a moving regulated area: All waters within 50 yards in front of the lead safety vessel preceding the first event participants, to 50 yards behind the safety vessel trailing the last event participants, and 100 yards on either side of participant and safety vessels during the event. The regulated area will move with the safety vessels and participants as they transit the waters east through Cape May Harbor, south through Cape May Inlet, west

through the Atlantic Ocean, north through the Delaware Bay, then east through Cape May Canal, and terminate at the Lost Fishermen's Memorial in Cape May Harbor. The regulated area will move at the pace of event patrol vessels and participants. The sponsor is the Desatnick Foundation.

4. Manasquan Inlet Intracoastal Tug.

This marine event takes place on one Saturday or Sunday in September or October. The location is Manasquan Inlet, NJ. The following area makes up the regulated area: all waters of Manasquan Inlet extending 400 feet from either side of the rope located between approximate locations latitude 40°06'09"N, longitude 74°02'08"W and latitude 40°06'14"N, longitude 74°02'08"W. The sponsor is the Borough of Manasquan.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a "significant regulatory action" under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, scope, duration, and historical data concerning the scope and potential impact of these marine events. The special local regulation areas within this rule have been enforced on an annual basis through temporary final regulations. The regulated areas will be enforced in limited areas on six days out of the year, usually for only a few hours on those days. Specifically, the

Manasquan Inlet Intracoastal Tug often schedules breaks during the event to temporarily let vessels pass through the inlet waterway entrance. Vessels will be able to contact the COTP for permission to transit the regulated areas or instructions for safely transiting around the area during enforcement periods.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on

actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves special local regulations at various locations and at various times to maintain the safety of event participants, spectators, and transiting vessel traffic. It is categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A memorandum for record (MFR) supporting this determination is available in the docket. For instructions on locating the docket, see the ADDRESSES section of this preamble.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100 - SAFETY OF LIFE ON NAVIGABLE WATERS.

1. The authority citation for part 100 continues to read as follows:

Authority: 46 U.S.C. 70041; 33 CFR 1.05-1.

2. In § 100.501, amend Table 1 to Paragraph (i)(1) by adding entries for “Stockton Boat Race”, “Escape the Cape Swim”, “Around the Island Paddle”, and “Manasquan Inlet Intracoastal Tug” at the end of the table to read as follows:

§ 100.501 Special Local Regulations; Marine Events Within the Fifth Coast Guard District.

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Table 1 to Paragraph (i)(1)

Event	Regulated area	Enforcement period(s) ¹	Sponsor
* * * * *			
Stockton Boat Race	All navigable waters of the New Jersey Intracoastal Waterway in Atlantic City, NJ within the polygon bounded by the following: originating on the southwest portion at approximate position latitude 39°20’57” N., longitude 074°27’59” W.; thence northeasterly along the shoreline to latitude 39°21’35” N., longitude 074°27’06” W.; thence east across the mouth of Beach Thorofare to the shoreline at latitude 39°21’41” N., longitude 074°26’55” W.; thence east along the shoreline to latitude 39°21’42” N., longitude 074°26’51” W.; thence southeast across the New Jersey Intracoastal Waterway to the shoreline at latitude 39°21’43” N., longitude 074°26’41” W.; thence southwest along the shoreline to approximate position latitude 39°20’55” N., longitude 074°27’57” W.; thence	One weekend in March or April	Stockton University

	north to the point of origin. .		
Escape the Cape Swim	All navigable waters of the Delaware Bay in Lower Township, NJ bounded by a line drawn from: latitude 39°0'57" N, longitude 074°56'56" W in Villas, NJ, thence west to latitude 39°00'59"N, longitude 074°57'15"W, thence south to latitude 38°58'08"N, longitude 074°58'11"W, thence east to latitude 38°58'04" N, longitude 074°57'52" W in North Cape May, NJ, thence north along the shoreline to the point of origin.	One Saturday or Sunday in June	DelMoSports
Around the Island Paddle	All waters within 50 yards in front of the lead safety vessel preceding the first event participants, to 50 yards behind the safety vessel trailing the last event participants, and 100 yards on either side of participant and safety vessels during the event. The regulated area will move with the safety vessels and participants as they transit the waters east through Cape May Harbor, south through Cape May Inlet, west through the Atlantic Ocean, north through the Delaware Bay, then east through Cape May Canal, and terminate at the Lost Fishermen's Memorial in Cape May Harbor. The regulated area will move at the pace of event patrol vessels and participants.	One Saturday or Sunday in June, July or August	Desatnick Foundation

Manasquan Inlet Intracoastal Tug	All waters of Manasquan Inlet extending 400 feet from either side of the rope located between approximate locations latitude 40°06'09"N, longitude 74°02'08"W and latitude 40°06'14"N, longitude 74°02'08"W.	One Saturday or Sunday in September or October	Borough of Manasquan
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¹ As noted, the enforcement dates and times for each of the listed events in this table are subject to change. In the event of a change, or for enforcement periods listed that do not allow a specific date or dates to be determined, the Captain of the Port will provide notice to the public by publishing a Notice of Enforcement in the Federal Register, as well as, issuing a Broadcast Notice to Mariner.

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Dated: April 26, 2022.

Jonathan D. Theel,
Captain, U. S. Coast Guard.
Captain of the Port, Delaware Bay.
[FR Doc. 2022-09502 Filed: 5/3/2022 8:45 am; Publication Date: 5/4/2022]